IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE J.M.JAMES

TUESDAY, THE 5TH DECEMBER 2006 / 14TH AGRAHAYANA 1928

WP(C).No. 31281 of 2006(Y)

PETITIONER:

C.T.JOSEPH, S/O.THOMAS,
CHARANAL, THAZHUMKUNNU P.O.,
KALLOORKAD.

BY ADV. SMT.VEENA KRISHNAN

RESPONDENTS:

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1. MANGALLOOR HOUSING CO-OPERATIVE SOCIETY LTD.NO.E-233, MANGALLOOR P.O., MUVATTUPUZHA TALUK, REPRESENTED BY ITS SECRETARY.

2. THE SENIOR INSPECTOR, (ARBITRATION-CUM-SALES OFFICER), KERALA STATE CO-OPERATIVE HOUSING FEDERATION, REGIONAL OFFICE, ERNAKULAM, KOCHI.

BY SENIOR GOVT. PLEADER SRI.P.N.SANTHOSH.

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 05/12/2006, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

J.M. JAMES, J.

W.P.(C) No. 31281 of 2006

Dated this the 5th December, 2006.

J U D G M E N T

The writ petitioner was before this Court through W.P. (C) No.10800/2005. As per the judgment dated 3.7.2006, this Court disposed of the same directing the writ petitioner to remit entire amount due to the first respondent, Society, in 12 equal monthly instalments. The grievance of the writ petitioner in this writ petition is that the communication regarding the actual amounts due to the Society from the petitioner has not been supplied to him, and, therefore, the equal monthly instalments ordered by this Court could not be fixed.

2. Ext.P2 reveal that the HOUSE FED Arbitrator has passed an Award on 16.5.2003, fixing the amount due to the first respondent, Society, as Rs.1,65,086/=. This award has not been challenged by the petitioner. The interest is seen calculated at the rate of 15.7%. The learned Government Pleader submitted that being a Housing Co-operative Society, the interest will be higher than the other societies.

3. Counsel for the writ petitioner, however, submitted that an amount of Rs.72,000/= remitted by him to the first respondent, Society, had not been deducted, as per the accounts stated in Ext.P2 dated 27.9.2006. He also submitted that as the efforts of the petitioner, in getting the details of the exact balance amount due had failed, this writ petition is filed.

4. The best course open to the writ petitioner was to challenge Ext.P2 statement furnished by the first respondent, in which the conditions contained in Circular No.50/2006, dated 20.7.2006, was resorted to. 25% of interest was allowed to be deducted. However, there is nothing to show that the writ petitioner had paid an amount of Rs.72,000/=, and the same has been adjusted. In such circumstances, I direct the writ petitioner to file a representation before the first respondent together with a copy of the communication dated 27.9.2006 containing the details of the account, and the first respondent shall hear the writ petitioner, and fix the amount due, as per the benefits which are available to the writ petitioner.

5. Counsel, however, submits that instalment facility may be allowed to the petitioner, and the penal interest may also be waived.

6. In the above circumstances, I dispose of the writ petition, directing the first respondent to furnish the statement, as ordered above, basing on the representation that would be filed by the petitioner. The writ petitioner shall also be allowed to remit the entire amount due to the first respondent, Society, after deducting the amount, if any, paid by the writ petitioner, in ten equal monthly instalments. The first instalment shall be paid within one month from the date of furnishing of the account by the first respondent, Society. The subsequent instalments shall be remitted within one month thereon, on succeeding months.

7. In case of any dispute regarding the amount, interest or the penal interest, as the case may be, the writ petitioner shall take up the matter with the first respondent, Society, who shall hear the writ petitioner and pass appropriate orders.

J.M. JAMES,
JUDGE

nj.